

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 261**

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**Introduced by Assembly Member Chesbro**

February 7, 2013

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An act to amend Section 1569.884 of, and to add Section 1569.652 to the Health and Safety Code, relating to residential care facilities for the elderly.

### LEGISLATIVE COUNSEL'S DIGEST

AB 261, as amended, Chesbro. Residential care facilities for the elderly: fees and charges.

Existing law provides for the licensure and regulation of residential care facilities for the elderly, as defined, by the State Department of Social Services, including, among other things, regulation of fees and charges. Existing law requires the admission agreement for a residential care facility for the elderly to contain specified elements. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.

This bill would prohibit a residential care facility for the elderly from requiring advance notice for terminating an admission agreement upon the death of a resident, would prohibit ~~the facility from assessing any fees~~ *the accrual of any fees* once all personal property of the deceased is removed from the facility, and would prohibit the facility from impeding the removal of a deceased resident's personal ~~belongings,~~ *property*, as specified. The bill would require a residential care facility for the elderly to issue a refund of any fees paid in advance, covering

the time after a deceased resident's ~~belongings have~~ *personal property* ~~has been removed, within 15 days of those belongings that property~~ being removed. The bill would also require a residential care facility for the elderly to, within 3 days of becoming aware of a resident's death, provide written notice to specified persons of the facility's policies regarding contract termination at death and refunds, and to include in the admission agreement the conditions under which those refunds will be issued. The bill would exempt from these provisions fees charged by a continuing care equity project or to amounts deducted from entrance fee refunds or repayment, as defined.

By creating a new crime, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1569.652 is added to the Health and  
2 Safety Code, to read:  
3 1569.652. (a) A residential care facility for the elderly shall  
4 not require advance notice for terminating an admission agreement  
5 upon the death of a resident. ~~A residential care facility for the~~  
6 ~~elderly shall not assess any fees~~ *No fees shall accrue* once all  
7 personal property belonging to the deceased resident is removed  
8 from the living unit.  
9 (b) Upon the death of a resident, a licensee shall not impede the  
10 removal of the resident's ~~personal belongings~~ *property* from the  
11 facility during reasonable hours by an individual or individuals  
12 authorized by the resident or the resident's responsible person, as  
13 identified in the admission agreement or ~~addendum~~, *attachment*,  
14 or by a ~~representative of the resident's estate~~. *court-appointed*  
15 *executor or administrator of the decedent's estate, if applicable.*  
16 (c) A refund of any fees paid in advance covering the time after  
17 ~~the belongings have~~ *resident's personal property has* been removed  
18 from the facility shall be issued to the individual, individuals, or

1 entity contractually responsible for the fees or, if the deceased  
2 resident paid the fees, to the resident's estate, within 15 days after  
3 ~~those belongings are the personal property is~~ removed.

4 (d) If fees are assessed while a resident's ~~belongings remain~~  
5 *personal property remains* in a unit after the resident is deceased,  
6 a licensee shall, within three days of becoming aware of the  
7 resident's death, provide to the resident's responsible person, *or*  
8 *other individual or individuals as identified in the admission*  
9 *agreement or attachment*, written notice of the facility's policies  
10 regarding contract termination upon death and refunds.

11 (e) This section shall not apply to fees charged by a continuing  
12 care equity project as defined in paragraph (6) of subdivision ~~(e)~~  
13 ~~(e)~~ of Section 1771 or to amounts deducted from entrance fee  
14 refunds or repayments described in paragraph (2) of subdivision  
15 (r) of Section 1771.

16 SEC. 2. Section 1569.884 of the Health and Safety Code is  
17 amended to read:

18 1569.884. The admission agreement shall include all of the  
19 following:

20 (a) A comprehensive description of any items and services  
21 provided under a single fee, such as a monthly fee for room, board,  
22 and other items and services.

23 (b) A comprehensive description of, and the fee schedule for,  
24 all items and services not included in a single fee. In addition, the  
25 agreement shall indicate that the resident shall receive a monthly  
26 statement itemizing all separate charges incurred by the resident.

27 (c) A facility may assess a separate charge for an item or service  
28 only if that separate charge is authorized by the admission  
29 agreement. If additional services are available through the facility  
30 to be purchased by the resident that were not available at the time  
31 the admission agreement was signed, a list of these services and  
32 charges shall be provided to the resident or the resident's  
33 representative. A statement acknowledging the acceptance or  
34 refusal to purchase the additional services shall be signed and dated  
35 by the resident or the resident's representative and attached to the  
36 admission agreement.

37 (d) An explanation of the use of third-party services within the  
38 facility that are related to the resident's service plan, including,  
39 but not limited to, ancillary, health, and medical services, how  
40 they may be arranged, accessed, and monitored, any restrictions

1 on third-party services, and who is financially responsible for the  
2 third-party services.

3 (e) A comprehensive description of billing and payment policies  
4 and procedures.

5 (f) The conditions under which rates may be increased pursuant  
6 to Section 1569.655.

7 (g) The facility's policy concerning family visits and other  
8 communication with residents, pursuant to Section 1569.313.

9 (h) The facility's policy concerning refunds, including the  
10 conditions under which a refund for advanced monthly fees will  
11 be returned in the event of a resident's death, pursuant to Section  
12 1569.652.

13 (i) Conditions under which the agreement may be terminated.

14 (j) An explanation of the facility's responsibility to prepare a  
15 relocation evaluation, for each resident and a closure plan and to  
16 provide notice in the case of an eviction pursuant to Section  
17 1569.682.

18 SEC. 3. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the penalty  
23 for a crime or infraction, within the meaning of Section 17556 of  
24 the Government Code, or changes the definition of a crime within  
25 the meaning of Section 6 of Article XIII B of the California  
26 Constitution.